IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Sawaran Jeet Singh v. State of Rajasthan & Ors.

S.B.CIVIL WRIT PETITION NO.2807/1993
under Article 226 of the Constitution of India.

Date of Order : 11th November, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. S.L.Jain, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.
Mr. C.L.Jain, for the respondents.

BY THE COURT :

The instant petition for writ is preferred by the petitioner under Article 226 of the Constitution arising out of following circumstances:-

The Government of Rajasthan in the year 1965 decided to abolish the system of keeping the village servants such as Kotwals, Tarkhans, Nais, Pujaris, Granthis and Molvies etc. For the purpose letter No.F.2(682)Rev/B62 dated 5.6.1965 was addressed by Secretary to Government of Rajasthan to all the

Collectors. The Secretary to the Government of Rajasthan in the letter dated 5.6.1965 stated that the system of present Kotwals, Tarkhans, Nais, Pujaris, Granthis and Molvies etc. who held village servant grants or mafi lands may now be notified that their services are no longer required and if they wish to secure khatedari rights in respect of lands held by them in lieu of village service they will have to pay the government the reserve price of the land.

The Collector, Ganganagar in pursuant to the letter dated 5.6.1965 issued a notification on 30.4.1966 which reads as under:-

> "In pursuance of section 193 of the Rajasthan Tenancy Act, 1955, I, T.V.Ramanan Collector, Sriganganagar hereby declare that the services of village servants i.e. Kotwals, Tarkhans, Nais, Pujaris, Granthis and Molvies of Gang Canal area and Bhakra Project are no more required, as desired by the Government of Rajasthan vide Secretary, Revenue (B) Department, Rajasthan, Jaipur letter No.F.2(682)Rev/B/62 dated 5.6.65 and dated 11.3.66. These village servants are directed to apply to their concerning Sub-Divisional Officers (rev) within thirty days from the issue of this Notification for obtaining Khatedari rights in accordance with the instructions of the Government contained in above referred communications."

From reading of notification dated 30.4.1966 it is apparent that Collector, Sriganganagar while exercising powers under Section 193 of the Rajasthan Tenancy Act, 1955 (hereinafter referred to as"the Act of 1955") declared that services of village servants which includes the Granthis in Ganganagar District are no longer required and that village servants were directed to apply to their concerning Sub Divisional Officer (Revenue) for obtaining khatedari rights in mafi lands held by them in accordance with the instructions of the Government.

One Shri Somprakash being Granthi was allotted four bighas and seven biswas land in murrabba No.12, kila No.21 to 25 in Chak 2 BBA as the grant. The Sub Divisional Officer (Revenue), Srikaranpur by an order dated 30.3.1967 recognised khatedari rights of Shri Somprakash on the land referred above. Shri Somprakash deposited price of the land to the State Government. Shri Somprakash on 16.1.1970 executed a will in favour of the petitioner which is placed on record as Anx.4. Shri Somprakash died somewhere in the year 1972-73 and thereafter the petitioner was in cultivatory possession over the land in question. The Sub Divisional Officer, Srikaranpur sanctioned mutation of the land which was in khatedari of Late Shri Somprakash in favour of Gurudwara Chak Deh. The entry in the mutation as stated above was made on

26.5.1993. Being aggrieved by the same present writ petition is preferred by the petitioner.

It is contended by counsel for the petitioner that by the force of Section 193 of the Act of 1955 Shri Somprakash became khatedar tenant and thereafter he was having all authority to transfer the land and as such the same was acquired by the petitioner being a legal heir of Shri Somprakash. It is contended by counsel for the petitioner that there was no reason for transferring mutation in favour of Gurudwara by the respondent No.2..

A reply to the writ petition has been filed on behalf of the respondents stating therein that the land was allotted to the Granthi due to services rendered by him with Gurudwara and as such Shri Somprakash was having no right to transfer such land to the petitioner. According to the respondents the mutation was required to transfer in the name of Gurudwara after death of Granthi Late Shri Somprakash.

Heard counsel for the parties.

There is no dispute between the parties that Government of Rajasthan by letter dated 5.6.1965 decided to abolish the system of Kotwals, Tarkhans, Nais, Pujaris, Granthis and Molvies who held village services grants or mafi lands. The Government of

Rajasthan while doing so also decided that village Granthis whose services are no longer required, if wish to secure khatedari rights in respect of the lands held by them in lieu of village services, they have to pay to the Government the reserve price of the land. The Collector, Ganganagar in pursuant to the letter dated 5.6.1965 issued a notification dated 30.4.1966 declaring that services of the village servants which includes Granthis in Ganganagar District were no longer required. The Granthis whose services were no longer required were also directed to apply to their concerning Sub Divisional Officers (Revenue) for obtaining khatedari rights in mafi lands held by them in accordance with the instructions of the Government. The khatedari rights were accordingly given to Shri Somprakash by order dated 30.3.1967. Shri Somprakash also deposited reserve price for the purpose above with the State. The language of the provisions of Section 193 of the Act of 1955 is also quite clear which confers a right on a village servant that if his services are terminated by the Collector then he would be entitled to held the land which was granted to him as village servant as a khatedar tenant.

In the present case the Collector, Sriganganagar in pursuant to the instructions given by the Government of Rajasthan by letter dated 5.6.1965 declared under the notification dated 10.5.1966 that

the services of the village servants were no more required. A village servant who acquired the status of khatedar tenant under Section 193 of the Act of 1955 is not required to pay any amount being acquired in lieu of services given by him as village servant. In the present case Shri Somprakash though was not required to pay any amount to acquire khatedari tenancy paid the reserve price to the State Government. It is also well settled that once the khatedari rights have arisen in favour of the village servant he is competent enough to transfer the land.

In view of it the transfer made in favour of the petitioner as a consequence of will executed by Shri Somprakash in favour of the petitioner was just and the petitioner was not at all required to pay any additional amount to the State Government. The respondents, therefore, certainly erred while entering mutation in favour of Gurudwara Chak Deh.

The writ petition, therefore, deserves acceptance and, therefore, the same is hereby allowed. The mutation made in favour of Gurudwara Prabandh Kameti Chak 1 BBA, Tehsil Padampur on 21.5.1993 is quashed and set aside.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.